

9:00 a.m.
October 24, 2000

MINUTES – REGULAR MEETING

Evergreen Plaza Bldg. Room 206
711 Capitol Way South
Olympia, Washington

COMMISSION MEMBERS PRESENT

Ronda Cahill, Chair
Christine Yorozu, Vice Chair
Gerry Marsh, Secretary
Susan Brady, Member
Richard C. Locke, Member

STAFF PRESENT

Vicki Rippie, Executive Director
Susan Harris, Assistant Director
Michael Smith, Chief Technology Officer
Nancy Krier, Asst. Attorney General
Steve Reinmuth, Asst. Attorney General
Ruthann Bryant, Secretary

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Ronda Cahill at 9:00 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Minutes

Commissioner Cahill commented that page five of the draft September 26 minutes regarding the Brian Derdowski hearing should include the stipulated dollar amount of \$3000 with \$500 suspended. She also requested that the words “he did not feel” be substituted for “he did not know” that PDC forms had to be provided during the open records period.

Moved by Commissioner Marsh, seconded by Commissioner Yorozu:

Motion 01-039

The Commission adopts the minutes of the regular meeting of September 26, 2000, as amended.

Voting for: Commissioners Cahill, Yorozu,
Marsh and Brady

Not voting: Commissioner Locke

Citizen Comments/Concerns

No citizen comments were expressed.

Commissioner Comments

Commissioner Cahill thanked Commissioner Yorozu for attending the brief enforcement hearings on October 23 and assisting with 50 F1 non-filer cases.

Rule-Making

Mr. Ellis reported on possible permanent adoption for two proposed new rules, proposed amendments to eight rules, and a proposed repeal of one rule.

WAC 390-14-026

Access Goals Regarding Campaign and Lobbying Reports – Currently the goals are:

Electronic Filing – PDC office within 2 days
PDC website within 7 days

Paper Filing – PDC office within 4 days
PDC website within 14 days

On January 1, 2001 the goals are:

Electronic Filing - PDC office within 2 days
PDC website within 4 days

Paper Filing - PDC office within 4 days
PDC website within 7 days

On January 1, 2002, the goals are:

Electronic Filing – PDC office and web site within
2 days

Paper Filing – PDC office and web site within
4 days

WAC 390-20-146

Reporting of Field Trips and Other Excursions – at the April 25, 2000 meeting, the Commission adopted PDC Interpretation 00-01 effective July 1,

2000. The proposed rule clarifies the reporting requirements for field trips and other excursions.

This same rule will also be placed in chapter 390-24 WAC in order to provide guidance to persons filing personal financial affairs statements.

WAC 390-16-226

Commercial Loans to Candidates and Candidate Committees – the proposed amendment would implement PDC Interpretation 96-02 and Attorney General Opinion 2000 No. 4 regarding commercial loans to candidates, their committees or campaigns.

WAC 390-24-010 and
WAC 390-24-020

Forms for Statement of Financial Affairs and Forms for Amending Statement of Financial Affairs (PDC Forms F1 and F1A) – eliminates the need to identify dependent children who are not employed and do not have other reportable assets or liabilities and removes the space for designating party affiliation since reporting of this information is not mandated by statute.

Commissioner Brady suggested replacing “Business Telephone” with “Contact Telephone” since many people do not have a business telephone number.

WAC 390-18-010

Political Advertising. Identification of Sponsor – eliminates the need for sponsor identification to be in a printed or drawn box and to have the sponsor identification appear on only the first page instead of each page of the advertising.

WAC 390-13-010

Optional Format for Requests for Lists of Individuals – eliminates the hold harmless agreement section for affidavits from persons making requests for public records containing lists of individuals.

WAC 390-16-011 and
WAC 390-16-012

Registration Statements for Political Committees and Candidates – adopts the language of the recently approved emergency rules on a permanent basis.

WAC 390-16-044

Statewide ballot issue signature gathering expenses; reporting – repeals this rule as it implements statutory language that has been found unconstitutional.

WAC 390-20-0101

L1- Lobbyist Registration Form – updates the contact information on the Lobbyist Registration and emphasizes the use of business addresses and telephone numbers, eliminates item number 8 regarding compensation contingency agreements and adds space for providing email, cell phone and pager number on the L-1 form.

Mr. Ellis added that with an affirmative vote on the proposed rule changes, the permanent rules become effective 31 days after filing the rule-making order with the Code Reviser.

There were no public comments.

Motion 01-040

Moved by Commissioner Brady, seconded by Commissioner Marsh:

The Commission adopts Access Goals to Campaign and Lobbying Reports (WAC 390-14-026) and Reporting of Field Trips and Other Excursions (WAC 390-20-146 and WAC 390-24-203) as new rules; changes to Loans (WAC 390-16-226), forms F1 – Statement of Financial Affairs (WAC 390-24-010), F1A – Amending Statement of Financial Affairs (WAC 390-24-020), C1 – Registration Statement for Candidates (WAC 390-16-012), C1pc – Registration Statement for Political Committees (WAC 390-16-011), L1 – Forms for Lobbyist Registration (WAC 390-20-0101), Political Advertising. Identification of Sponsor (WAC 390-18-010), Optional Format for Requests for Lists of Individuals (WAC 390-13-010) and repeals Statewide Ballot issue signature gathering expenses (WAC 390-16-044).

The motion passed unanimously.

Advisory Matters
Conservation Districts

Ms. Rippie summarized a request from the Conservation Commission regarding whether Conservation District Supervisors must file under chapter 42.17 RCW.

Nancy Krier reported that conservation districts are special purpose districts governed by chapter 89.08 RCW. In the past, eligible voters in conservation district elections were defined as having special qualifications such as being a registered voter and being a landowner or occupier. She added that the Legislature recently changed the definition of eligible voter in RCW 89.08.020 to mean a registered voter in the county where the district is located who resides within the district boundary or in the area affected by a petition. As a result, the change in the law has raised a number of issues with respect to conservation district elections and the laws administered by the Public Disclosure Commission.

Senator Bob Morton was present via telephone and commented that the Legislature never intended to change the election procedure. Conflicts have since been found particularly in RCW 89.08.190 and RCW 29.13. Senator Morton asked the Commission to consider delaying action until the Legislature is able to reexamine this issue in 2001.

Mr. Steven Meyer, Executive Director of the Conservation Commission, was also present and noted that no one looked at the residence of the voters at the time of the change in 1999, and the conflict was first discovered after an appealed election was brought before the Conservation Commission. He also noted that his commission is in the process of drafting executive request legislation to change RCW 89.08 to conform with RCW 29.13.

Ms. Krier clarified that in the absence of legislation passing during the upcoming session, this issue will return to the Public Disclosure Commission in April 2001.

Motion 01-041

Moved by Commissioner Marsh, seconded by Commissioner Brady:

The Commission defers action on the applicability of chapter 42.17 RCW to Conservation District Supervisors until the April 2001 meeting.

The motion passed unanimously.

*Washington State Republican
Party*

Susan Harris summarized a request for guidance by the Washington State Republican Party on whether it must alter its fundraising efforts in order to comply with RCW 42.17.710 since its chairman is also a state senator.

Ms. Harris reported that as long as Senator Benton clearly presents his role as that of a party chairman seeking funds for permitted activities under the statute and rule, and clearly not as a state official seeking funds for incumbents or known candidates directly or through the party or for other unauthorized activities, he and other agents of the party may participate in WSRP activities to solicit funds.

Staff recommended that the Commission determine the following:

1. That RCW 42.17.710 does not prohibit the party from soliciting or accepting contributions to its federal account during the session freeze period, whether or not those solicitations are made by a chairman who is also a state legislator.
2. That RCW 42.17.710 does not prohibit a party chairman who is also a state legislator from soliciting or accepting contributions for the party's exempt account during the

session freeze period under RCW 42.17.640(14) and WAC 390-17-400(8) and (12).

3. That RCW 42.17.710 does not prohibit the party from continuing its normal fund raising efforts for its non-exempt account during the session freeze period so long as the solicited funds do not benefit incumbent state officials or known candidates.
4. That RCW 42.17.710 does not prohibit agents of the party from soliciting contributions to the party during the session freeze period in accordance with WAC 390-17-400(11).

Motion 01-142

Moved by Commissioner Yorozu, seconded by Commissioner Brady:

The Commission adopts staff recommendations regarding the Washington State Republican Party's ability to solicit contributions during the session freeze period.

The motion passed unanimously.

Reporting Modifications

Reconsideration:

*Robert MacDermid, Candidate
Freeholder, Kitsap County*

Mr. Stutzman reported that Mr. MacDermid was granted a reporting modification under Kimura Protocol #2 at the September meeting but was requesting reconsideration of the modification.

Mr. MacDermid was present and addressed the Commission stating that he felt that disclosing information concerning payments from clients under Kimura Protocol #2 would create a manifestly unreasonable hardship for his clients and could result in substantial injury to his clients and his professional reputation and the livelihood of his firm.

Commissioner Brady commented that the local issues should come under more scrutiny by the

public since their commitments, personal contacts and activities really can make a difference. She also noted that many attorneys have been granted modifications under the Kimura Protocol and it has worked well in the past and should remain in tact.

There was no motion to reconsider.

*Robert Fuller, Hospital
Commissioner, Lewis County
Hospital District #1*

Mr. Stutzman reported that Mr. Fuller was no longer requesting a reporting modification.

Agency Request Legislation
Enforcement Authority –
Penalties

Ms. Rippie reported on a revised version of the enforcement bill approved at the September meeting. She noted that the changes emphasize that enforcement responsibility only encompasses the political finance provisions of chapter 42.17 RCW, not the public records sections of the law.

The draft bill includes:

1. Increasing the court's penalty authority from \$10,000 to \$40,000 per violation;
2. Increasing the Commission's penalty authority from \$1,000 per violation and \$2,500 for multiple violations to a maximum of \$5,000 per violation with no cap;
3. Authorizing the courts and the Public Disclosure Commission to order that:
 - Excessive contributions be returned and other actions necessary to be in full compliance be taken;
 - Public officials and employees who misuse public resources, by assisting campaigns or engaging in impermissible lobbying, pay restitution and penalties with non-public funds; and
4. Authorizing the courts to enjoin the following persons –lobbyists, lobbyist employers, candidates, political committees and other persons who have

not paid penalties imposed by the court or PDC – from raising or spending funds until fines are paid in full.

Motion 01-143

Moved by Commissioner Brady, seconded by Commissioner Marsh:

The Commission recommends moving forward with the proposed agency request legislation as presented.

The motion passed unanimously.

Lobbyist Pictorial Directory

Ms. Rippie noted that attempts to repeal the lobbyist pictorial directory have been met with resistance and staff recommends holding the bill at this time.

Scope of Authority

Ms. Rippie reported that the second draft bill relates to confirming that the Commission's scope of authority only includes the political finance subdivision of the law: campaign finance and contribution limits, lobbying, political advertising and reporting of public officials' financial affairs and not the public records section.

She noted that one option to consider is requesting an Attorney General's Opinion. Were that opinion to conclude that the agency's responsibilities to enforce the public records section of the law go beyond what they have been historically perceived to be, that opinion could serve as a basis for additional funding to fulfill these duties or legislative action.

Commissioner Yorozu suggested the possibility of another office co-sponsoring this bill with the PDC or perhaps the Attorney General's Office has a bill to which this issue could be added.

Nancy Krier commented that she is not aware of relevant legislation in the Attorney General's Office at this time. She also noted that this does need to be looked at in the future.

Commissioner Brady commented that this issue is not a priority and she suggests keeping it in reserve.

The Commission agreed not to pursue this matter during the upcoming session.

Staff Reports

Executive Director

Vicki Rippie reported on the status of the FY 2001 budget noting that expenditures for the agency are at 21% which is 3% below expectations due to vacancies and IT funds that will be used for projects later in the fiscal year. \$104,000 has been deposited into the general fund from penalty assessments. The toll-free number has resulted in just over 65 hours of usage over the last few months.

Mr. Ellis pointed out a new addition to the web site which shows the Top Five Contributors to Statewide Ballot Initiative Committees, Most Money Spent in State Senate and House races, as well as Independent Expenditures – General Election 2000. He noted that one or two of this year's initiatives could reach the second highest all-time expenditure record.

Assistant Director

Susan Harris introduced a new Senior Political Finance Specialist, Suemary Trobaugh and a new Political Finance Specialist, Anne Springer.

Ms. Harris commented that brief enforcement hearings were held for 50 F1 non-filers and suspended penalties were revoked for 9 candidates for failure to pay under the terms of their orders.

Chief Technology Officer

Michael Smith briefed the Commission on the web site usage and the progress of a Request for Proposal for replacement, upgrades and enhancements to the Commission's electronic document management system.

Assistant Attorney General

Nancy Krier summarized the status of pending litigation. Ms. Krier commented that the

Evergreen Freedom Foundation v. PDC case has been closed.

Adjournment

Commissioner Cahill adjourned the meeting at 12:25 p.m. The next meeting is scheduled for Tuesday, January 23, 2001.

Approved by the Commission 1/23/01